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Attorneys for Defendant
NAPHCARE, INC.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

>*<

IMA ILIU FLORES ZELAYA, individually,
and as Special Co-Administrator of the Estate
of Luis Solano, and as legal guardian of LUIS
JERSIAN SOLANO, JR., a minor; ELIA
DELCARMEN SOLANO-PATRICIO,
individually, and as Special Co-Administrator
of the Estate of Luis Solano,

Plaintiffs,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, a political subdivision of
the State of Nevada; SHERIFF BILL
GILLESPIE, individually and his capacity as
sheriff of the Las Vegas Metropolitan Police
Department; SGT DAVID ASPIAZU,
individually and in his capacity;
CORRECTIONS OFFICER BRADLEY
TEMPLE, individually and in his capacity;
CORRECTIONS OFFICER PATRICK
GRAY, individually and in his capacity;
CORRECTIONS OFFICER EUGENE
DIXON, individually and in his official
capacity; NAPHCARE, INC., an Alabama
corporation; DOE OFFICERS I through X,
individually, and in their official capacity; and
DOES XI through XX; and ROE
CORPORATIONS XXI through XXX,
inclusive,

Defendants.

Case No. 2:13-cv-01181-JAD-CWH

**STIPULATION AND PROTECTIVE
ORDER REGARDING
CONFIDENTIALITY FOR DOCUMENTS
PRODUCED BY DEFENDANT
NAPHCARE, INC.**

**STIPULATION AND PROTECTIVE ORDER REGARDING CONFIDENTIALITY FOR
DOCUMENTS PRODUCED BY DEFENDANT NAPHCARE, INC.**

It is anticipated that discovery in this action may require Defendant NaphCare, Inc. (hereinafter referred to as “Naphcare”) to disclose information and documents that are confidential, proprietary and sensitive, particularly because it is a private entity contracted to provide medical, dental and psychiatric care at the Clark County Detention Center. Disclosure of this information could result in harm to the business and practices of NaphCare. Although this information may be subject to conditional disclosure, NaphCare is entitled to the protections described below.

1. As used in this Protective Order, the term “confidential information” means any documents, testimony, or other information that is produced from the date of this agreement forward, including: policies and procedures which are used to govern the provision of healthcare services to the inmates at the Clark County Detention Center (“CCDC”), and internal documents used for monitoring and maintaining its business practices, including the healthcare rendered at the CCDC and has been designated as “CONFIDENTIAL”.

2. The term “disclosure” shall include the dissemination, communication, publication or reproduction of any confidential material or the specific contents of the information contained therein, or the communication of any estimate or other information which facilitates the discovery of confidential information. Should any pleading with the Court require reference or attachment of any confidential information, the parties shall first request leave to file the document under seal, as further defined in Paragraph 11 below.

3. As used in this Protective Order, the term “qualified persons” means (i) counsel of record for the parties to the litigation, including office associates, paralegals, and stenographic and clerical employees to whom disclosure is reasonably necessary; (ii) experts retained for the

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1 purpose of this litigation to whom disclosure is reasonably necessary and who reviewed and
2 signed a copy of this Stipulation; (iii) parties to this action; and (iv) court personnel, including
3 stenographic reporters engaged in such proceedings as are necessarily incident to this litigation.

4 4. Confidential information shall be and remain confidential, and, except as allowed
5 by this Protective Order, may not be disclosed or communicated, nor used for any purpose other
6 than this litigation, including any appeals.

7 5. Any and all documents containing confidential information must be retained by
8 counsel, and not be disclosed or made available to any person other than a qualified person who
9 has read and acknowledged the terms of this Protective Order. Similarly, the confidential
10 information contained within those documents may not be disclosed to any person other than a
11 qualified person. To the extent reasonably necessary, copies of confidential documents may be
12 provided to experts retained for the purpose of this litigation to whom disclosure is reasonably
13 necessary and who have signed this Stipulation and Protective Order. Nothing in this Protective
14 Order shall in any way affect the admissibility or use at trial of any of the documents produced
15 under this Protective Order.

16 6. Any person who is in possession of confidential information, or to whom
17 confidential information is disclosed, is responsible for ensuring that such confidential
18 information is not inadvertently disclosed by him or her. Failure to take all reasonable
19 precautions to ensure against such inadvertent disclosure will be viewed by the Court as willful
20 disobedience of this Protective Order, and will be punished accordingly.

21 7. Counsel or parties receiving confidential information may not disclose that
22 confidential information to any expert without first furnishing to that expert a copy of this
23 Stipulation and Protective Order and obtaining a signed copy of this Stipulation and Protective
24 Order from that expert.

1 8. Any person who executes a copy of this Stipulation and Protective Order submits
2 to the jurisdiction of this Court for purposes of enforcement of this Protective Order, either prior
3 to or following trial of this action. Jurisdiction of this action is to be retained by this Court after
4 final determination for purposes of enabling any party or persons affected by this Protective
5 Order to apply to the Court for such direction or further decree as may be appropriate for the
6 construction or enforcement of this Protective Order, or for such additional relief as may become
7 appropriate.

8 9. If any party or persons affected by this Protective Order objects to the designation
9 by the disclosing party, non-party, or person of a document or item, pleading, or transcript of
10 testimony as "CONFIDENTIAL", he shall give notice of the same to the disclosing party, non-
11 party, or person in writing of the document, pleading, and/or testimony at issue and the reason
12 for the objection. The disclosing Defendant shall thereafter have twenty (20) business days
13 within which to apply to the Court for appropriate protection of the document, pleading, and/or
14 testimony pursuant to the Federal Rules of Civil Procedure. If the disclosing Defendant does not
15 make application within twenty (20) business days after receipt of the written objection of a
16 party (or within the stipulated time period if stipulated to be longer or shorter than twenty (20)
17 days), then the documents, pleadings, and/or testimony at issue shall no longer be deemed
18 "CONFIDENTIAL". However, until expiration of the twenty (20) day time period (longer or
19 shorter if stipulated) or until the Court enters an order changing the designation, whichever is
20 later, the information shall continue to be given the "CONFIDENTIAL" treatment initially
21 assigned to it and provided for in this Order.

22 10. If any individual is making copies of any confidential information allowed by this
23 agreement, said individual must ensure that the copies are also marked "Confidential."

24 11. Any person who wishes to file with this Court any document, paper, or other

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1 tangible item disclosing confidential material may disclose only those confidential materials that
2 are necessary to support the pleading, motion or other paper to which the confidential document,
3 paper, or other tangible item is attached, and must first attempt to contact the disclosing party in
4 an attempt to reach an agreement/Stipulation regarding whether filing the document should be
5 under seal. If such contact is not possible, the filing party must provide said counsel with a
6 description of the contacts attempted and/or the basis for not contacting the undersigned. The
7 parties to this agreement understand that is a “strong presumption in favor of access.” A party
8 seeking to seal a judicial record at trial and/or the dispositive motions stage bears the burden of
9 establishing “compelling reasons” by “articulating compelling reasons supported by specific
10 factual findings,” that outweigh the public policies favoring disclosure. Kamakana v. City and
11 County of Honolulu, 447 F.3d 1172, 1178-79 (9th Cir. 2006).

12 12. Nothing in this Protective Order precludes the deposition examination of any
13 person regarding confidential information of which they have knowledge. In any such
14 deposition, the disclosing Defendant may designate specific testimony deemed to be
15 “CONFIDENTIAL” by advising the court reporter of such fact prior to the conclusion of the
16 deposition. The reporter shall mark the face of the transcript “CONTAINS CONFIDENTIAL
17 INFORMATION.” All transcripts of said deposition containing confidential information will be
18 treated in accordance with this Protective Order, wherein if any portions of the deposition
19 transcript containing confidential material is to be filed with the Court, Paragraph 11 should be
20 observed.

21 13. The parties taking any deposition shall retain a court reporter who agrees that
22 before transcribing any such testimony, that all testimony containing confidential information is
23 and shall remain confidential and shall not be disclosed except as provided in this Protective
24 Order and that copies of any transcript, reporter’s notes, or any other transcription records of any

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1 such testimony will be retained in absolute confidentiality and safekeeping by such shorthand
2 reporter or delivered to attorneys of record or filed with the Court under seal.

3 14. If, during trial, any party intends to introduce into evidence any information
4 designated as "CONFIDENTIAL," he/she shall give timely notice of that intention to the Court,
5 all counsel, and any disclosing non-party or person, and the Court may take such steps as it shall
6 deem reasonably necessary to preserve the confidentiality of such information, without violating
7 any statute or other rule of the Court.

8 15. Nothing in this Protective Order requires a party to disclose confidential
9 information that the party also contends is protected from disclosure based upon a privilege
10 (including but not limited to HIPAA rights of others) or for some reason other than the mere
11 confidential or proprietary nature of the document or information (including but not limited to
12 non-discoverable trade secrets).

13 16. Upon the final determination of this action, counsel and all qualified persons shall
14 return any confidential information to counsel for Defendant NaphCare, upon their request,
15 together with any copies of confidential information. Transcripts containing confidential
16 information also must be returned to the requesting Defense Counsel or the disclosing non-party
17 or person.

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17. Anyone found to be in violation of this Protective Order may have sanctions imposed against him or her as the Court may determine and allowable under law and may also be subject to contempt of court proceedings.

DATED this 9th day of March, 2015.

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By /s/ Seetal Tejura, Esq.
Seetal Tejura, Esq.
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7401 W. Charleston Boulevard
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Attorneys for Defendant
NAPHCARE, INC.

DATED this 9th day of March, 2015.

MARQUIS AURBACH COFFING

By /s/ Craig Anderson, Esq. *
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Las Vegas Metropolitan Police Department,
Sheriff Douglas Gillespie, Sgt. David
Aspiazu, Corrections Officer Bradley
Temple, Corrections Officer Patrick Gray,
and Corrections Officer Eugene Dixon

** Electronic signatures entered with permission*

DATED this 9th day of March, 2015.

CALLISTER, IMMERMANN & ASSOCIATES

By /s/ Mitchell S. Bisson, Esq. *
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SOLANO-PATRICIO, individually, and as Special
Co-Administrator of the Estate of Luis Solano

DATED this 9th day of March, 2015.

SHUMWAY VAN & HANSEN

By /s/ Kevin R. Hansen, Esq. *
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Attorneys for Plaintiff IMA ILIU FLORES
ZELAYA, individually, and as Special Co-
Administrator of the Estate of Luis Solano, and as
legal guardian of LUIS JERSIAN SOLANO, JR., a
minor

ORDER

IT IS SO ORDERED.

Dated this 11th day of March, 2015.

UNITED STATES MAGISTRATE JUDGE CARL W. HOFFMAN

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EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____, have read in its entirety and understand the Protective Order that was issued by the United States District Court, for the District of Nevada on _____, 201__, in the case of *Zelaya et. al. v. LVMPD et. al.*, Case No. 2:13-cv-01181-JAD-CWH. I agree to comply with and to be bound by all terms of this Protective Order and I understand and acknowledge that failure to do so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Protective Order that any person or entity except in strict compliance with the provisions of this Order. Further, I solemnly promise that I will not offer to sell, advertise or publicize that I have obtained any Protected Material subject to this Protective Order. At the conclusion of this matter, I will return all Protected Material which came into my possession to counsel for the party from whom I received the Protected Material, or I will destroy those materials. I understand that any Confidential Information contained within any summaries of Protected Material shall remain protected pursuant to the terms of this Order. I further agree to submit to the jurisdiction of the United States District Court, for the District of Nevada for the purpose of enforcing the terms of this Protective Order, even if such enforcement proceedings occur after termination of this action.

I certify under the penalty of perjury that the foregoing is true and correct.

Date: _____

City and State where signed: _____

Printed name: _____

Address: _____

Signature: _____

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